

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF VIRGINIA

09-36136

CHAPTER 13 PLAN  
AND RELATED MOTIONS

Name of Debtor(s): **Michael C Burt**

Case No:

This plan, dated September 22, 2009, is:

- ☒ the *first* Chapter 13 plan filed in this case.  
☐ a modified plan, which replaces the plan dated \_\_\_\_\_.

Date and Time of Modified Plan Confirming Hearing:

Place of Modified Plan Confirmation Hearing:

The plan provisions modified by this filing are:

Creditors affected by this modification are:

**NOTICE: YOUR RIGHTS WILL BE AFFECTED. You should read these papers carefully. If you oppose any provision of this plan, or if you oppose any included motions to (i) value collateral, (ii) avoid liens, or (iii) assume or reject unexpired leases or executory contracts, you MUST file a timely written objection.**

**This plan may be confirmed and become binding, and the included motions in paragraphs 3, 6, and 7 to value collateral, avoid liens, and assume or reject unexpired leases or executory contracts may be granted, without further notice or hearing unless a written objection is filed not later than ten (10) days prior to the date set for the confirmation hearing and the objecting party appears at the confirmation hearing.**

The debtor(s)' schedules list assets and liabilities as follows:

Total Assets: **\$883,150.00**  
Total Non-Priority Unsecured Debt: **\$20,473.00**  
Total Priority Debt: **\$5,900.00**  
Total Secured Debt: **\$819,384.00**

09-36136

1. **Funding of Plan.** The debtor(s) propose to pay the trustee the sum of **\$3,645.00 Monthly for 60 months**. Other payments to the Trustee are as follows: **NONE**. The total amount to be paid into the plan is \$ **218,700.00**.

2. **Priority Creditors.** The Trustee shall pay allowed priority claims in full unless the creditor agrees otherwise.

**A. Administrative Claims under 11 U.S.C. § 1326.**

1. The Trustee will be paid 10% of all sums disbursed except for funds returned to the debtor(s).
2. Debtor(s)' attorney will be paid \$ **2,714.00** balance due of the total fee of \$ **3,000.00** concurrently with or prior to the payments to remaining creditors.

**B. Claims under 11 U.S.C. § 507.**

The following priority creditors will be paid by deferred cash payments pro rata with other priority creditors or in monthly installments as below, except that allowed claims pursuant to 11 U.S.C. § 507(a)(1) will be paid prior to other priority creditors but concurrently with administrative claims above:

<u>Creditor</u>	<u>Type of Priority</u>	<u>Estimated Claim</u>	<u>Payment and Term</u>
IRS	Taxes and certain other debts	1,000.00	Prorata 2 months
Mecklenburg County Taxes	Taxes and certain other debts	4,900.00	Prorata 2 months

3. **Secured Creditors and Motions to Value Collateral.**

This paragraph provides for claims of creditors who hold debts that are secured by real or personal property of the debtors(s) but (a) are not secured solely by the debtor(s)' principal residence and (b) do not have a remaining term longer than the length of this plan.

**A. Claims to Which § 506 Valuation is NOT Applicable.** Claims listed in this subsection consist of debts secured by a purchase money security interest in a motor vehicle acquired for the personal use of the debtor for which the debt was incurred within 910 days of the filing of the bankruptcy petition, or if the collateral for the debt is any other thing of value, the debt was incurred within 1 year of filing. See § 1325(a)(5). After confirmation of the plan, the Trustee will pay to the holder of each allowed secured claim the monthly payment in column (f) based upon the amount of the claim in column (d) with interest at the rate stated in column (e). **Upon confirmation of the plan, the interest rate shown below will be binding unless a timely written objection to confirmation is filed and sustained by the Court.** Payments distributed by the Trustee are subject to the availability of funds.

(a) <u>Creditor</u>	(b) <u>Collateral</u>	(c) <u>Purchase Date</u>	(d) <u>Est Claim Amt</u>	(e) <u>Interest Rate</u>	(f) <u>Monthly Paymt&amp; Estimate Term**</u>
<b>-NONE-</b>					

**B. Claims to Which § 506 Valuation is Applicable.** Claims listed in this subsection consist of any claims secured by personal property not described in Plan paragraph 3.A. After confirmation of the plan, the Trustee will pay to the holder of each allowed secured claim the monthly payment in column (f) based upon the replacement value as stated in column (d) or the amount of the claim, whichever is less, with interest at the rate stated in column (e). The portion of any allowed claim that exceeds the value indicated below will be treated as an unsecured claim. **Upon confirmation of the plan, the valuation and interest rate shown below will be binding unless a timely written objection to confirmation is filed and sustained by the Court.** Payments distributed by the Trustee are subject to the availability of funds.

(a) <u>Creditor</u>	(b) <u>Collateral</u>	(c) <u>Purchase Date</u>	(d) <u>Replacement Value</u>	(e) <u>Interest Rate</u>	(f) <u>Monthly Paymt&amp; Estimate Term**</u>
Citizens Community Bank G M A C	1995 John Deere 310D repod Automobile	Opened 8/01/06 Last Active 8/21/09	15,000.00 0.00	10% 0%	Prorata 59 months Prorata 59 months

(a) Creditor	(b) Collateral	(c) Purchase Date	(d) Replacement Value	(e) Interest Rate	(f) Monthly Paymt & Estimate Term**
G M A C	2006 3500 Chevy Silverado Lt 58k miles	Opened 10/01/07 Last Active 8/05/09	19,000.00	4.5%	Prorata 59 months
Komatsu Financial	Komatsu Model D39PX-21		128,000.00	0%	Prorata 59 months
Wfs Financial/Wachovia	Komatsu Model PC200 LC-8 2004 Chevy Silverado 3500	Opened 12/01/05 Last Active 7/31/09	10,920.00	9%	Prorata 59 months

**\*\* THE MONTHLY PAYMENT STATED HERE SHALL BE THE ADEQUATE PROTECTION PAYMENTS PURSUANT TO 1326(a)(1)(C) TO THESE CREDITORS UNLESS OTHERWISE PROVIDED IN PARAGRAPH 11 OR BY SEPARATE ORDER OF THE COURT.**

- C. **Collateral to be surrendered.** Upon confirmation of the plan, or before, the debtor will surrender his or her interest in the collateral securing the claims of the following creditors in satisfaction of the secured portion of such creditors' allowed claims. To the extent that the collateral does not satisfy the claim, any timely filed deficiency claim to which the creditor is entitled shall be paid as a non-priority unsecured claim. The order confirming the plan shall have the effect of terminating the automatic stay as to the collateral surrendered.

Creditor	Collateral Description	Estimated Total Claim	Full Satisfaction (Y/N)
Saxon Mortgage Sercive	16577 Hwy 47 Chase City VA 23924	369,032.00	Y

#### 4. Unsecured Claims.

- A. **Not separately classified.** Allowed non-priority unsecured claims shall be paid pro rata from any distribution remaining after disbursement to allowed secured and priority claims. Estimated distribution is approximately 6 %. If this case were liquidated under Chapter 7, the debtor(s) estimate unsecured creditors would receive a dividend of approximately 0 %.

- B. **Separately classified unsecured claims.**

Creditor	Basis for Classification	Treatment
-NONE-		

#### 5. Long Term Debts and claims Secured by the Debtor(s)' Primary Residence.

Creditors listed below are either secured by the debtor(s)' principal residence or hold a debt the term of which extends beyond the term of this plan.

- A. **Debtor(s) to pay claim directly.** The creditors listed below will be paid by the debtor(s) pursuant to the contract without modification, except that arrearages, if any, will be paid by the Trustee either pro rata with other secured claims or on a fixed monthly basis as indicated below.

Creditor	Collateral	Regular Contract Payment	Estimated Arrearage	Interest Rate	Estimated Cure Period	Monthly Arrearage Payment
Bnchmrk Bank	16517 Hwy 47 Chase City VA 23924 \$189600 17577 Hwy 47 Chase City VA 23924 \$ 49700 2001 Volvo Truck 22095 2001 Mac Dump Truck 19739 99 Eager Beaver 50 ton Trailer \$23199 Crawler Loader Liebherr \$18705 PowerScreen Powergrind \$27,892.00	3,100.00	0.00	0%	0 months	

- B. Trustee to pay the contract payments and the arrearages.** The creditors listed below will be paid by the Trustee the regular contract monthly payments during the term of this plan. The arrearage claims, if any, will be cured by the Trustee by payments made either pro rata with other secured claims or by fixed monthly payments as indicated below.

<u>Creditor</u>	<u>Collateral</u>	<u>Regular Contract Payment</u>	<u>Estimated Arrearage</u>	<u>Interest Rate</u>	<u>Term for Arrearage</u>	<u>Monthly Arrearage Payment</u>
<b>-NONE-</b>						

- 6. Executory Contracts and Unexpired Leases.** The debtor(s) move for assumption or rejection of the executory contracts and leases listed below.

- A. Executory contracts and unexpired leases to be rejected.** The debtor(s) reject the following executory contracts.

<u>Creditor</u>	<u>Type of Contract</u>
<b>H &amp; M Financial Corp</b>	<b>Lease for a powerwasher that was stolen wants to reject lease</b>

- B. Executory contracts and unexpired leases to be assumed.** The debtor(s) assume the following executory contracts. The debtor agrees to abide by all terms of the agreement. The Trustee will pay the pre-petition arrearages, if any, through payments made pro rata with other priority claims or on a fixed monthly basis as indicated below.

<u>Creditor</u>	<u>Type of Contract</u>	<u>Arrearage</u>	<u>Monthly Payment for Arrears</u>	<u>Estimated Cure Period</u>
<b>-NONE-</b>				

- 7. Motions to Avoid Liens.**

- A. The debtor(s) move to avoid liens pursuant to 11 U.S.C. § 522(f).** The debtor(s) move to avoid the following judicial liens and non-possessory, non-purchase money liens that impair the debtor(s)' exemptions. **Unless a written objection is timely filed with the Court, the Court may grant the debtor(s)' motion and cancel the creditor's lien.** If an objection is filed, the Court will hear evidence and rule on the motion at the confirmation hearing.

<u>Creditor</u>	<u>Collateral</u>	<u>Exemption Basis and Amount</u>	<u>Value of Collateral</u>
<b>-NONE-</b>			

- B. Avoidance of security interests or liens on grounds other than 11 U.S.C. § 522(f).** The debtor(s) have filed or will file and serve separate pleadings to avoid the following liens or security interests. The creditor should review the notice or summons accompanying such pleadings as to the requirements for opposing such relief. The listing here is for informational purposes only.

<u>Creditor</u>	<u>Type of Lien</u>	<u>Description of Collateral</u>	<u>Basis for Avoidance</u>
<b>-NONE-</b>			

- 8. Treatment of Claims.**

- All creditors must timely file a proof of claim to receive payment from the Trustee.
- If a claim is scheduled as unsecured and the creditor files a claim alleging the claim is secured but does not timely object to confirmation of the plan, the creditor may be treated as unsecured for purposes of distribution under the plan. This paragraph does not limit the right of the creditor to enforce its lien, to the extent not avoided or provided for in this case, after the debtor(s) receive a discharge.
- If a claim is listed in the plan as secured and the creditor files a proof of claim alleging the claim is unsecured, the creditor will be treated as unsecured for purposes of distribution under the plan.

- 9. Vesting of Property of the Estate.** Property of the estate shall revest in the debtor(s) upon confirmation of the plan. Notwithstanding such vesting, the debtor(s) may not sell, refinance, or encumber real property without approval of the court.

10. **Incurrence of indebtedness.** During the term of the plan, the debtor(s) shall not voluntarily incur additional indebtedness in an amount exceeding \$5,000 without approval of the court.
11. **Other provisions of this plan:**  
**Adequate protection payments to the following**  
**Citizens for 100**  
**Gmac for 200**  
**Komatsu for 500**  
**WFS for 100**

**Signatures:**

**Dated:** September 22, 2009

/s/ Michael C Burt  
Michael C Burt  
Debtor

/s/ Richard Oulton  
Richard Oulton  
Debtor's Attorney

**Exhibits:** **Copy of Debtor(s)' Budget (Schedules I and J);**  
**Matrix of Parties Served with plan**

Certificate of Service

I certify that on September 22, 2009, I mailed a copy of the foregoing to the creditors and parties in interest on the attached Service List.

/s/ Richard Oulton  
Richard Oulton  
Signature

111 Highland Ave  
Colonial Heights, VA 23834  
Address

804-520-2428  
Telephone No.

Ver. 06/28/06 [effective 09/01/06]

B6I (Official Form 6I) (12/07)

In re **Michael C Burt**

Debtor(s)

Case No.

**09-36136****SCHEDULE I - CURRENT INCOME OF INDIVIDUAL DEBTOR(S)**

The column labeled "Spouse" must be completed in all cases filed by joint debtors and by every married debtor, whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed. Do not state the name of any minor child. The average monthly income calculated on this form may differ from the current monthly income calculated on Form 22A, 22B, or 22C.

Debtor's Marital Status:	DEPENDENTS OF DEBTOR AND SPOUSE	
<b>Single</b>	RELATIONSHIP(S): <b>son</b>	AGE(S): <b>9</b>
<b>Employment:</b>	DEBTOR	SPOUSE
Occupation	<b>Excavator</b>	
Name of Employer	<b>Self Employed</b>	
How long employed	<b>28 years</b>	
Address of Employer		

INCOME: (Estimate of average or projected monthly income at time case filed)

1. Monthly gross wages, salary, and commissions (Prorate if not paid monthly)
2. Estimate monthly overtime

DEBTOR	SPOUSE
\$ <b>0.00</b>	\$ <b>N/A</b>
\$ <b>0.00</b>	\$ <b>N/A</b>

## 3. SUBTOTAL

\$ <b>0.00</b>	\$ <b>N/A</b>
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## 4. LESS PAYROLL DEDUCTIONS

- a. Payroll taxes and social security
- b. Insurance
- c. Union dues
- d. Other (Specify):

\$ <b>0.00</b>	\$ <b>N/A</b>
\$ <b>0.00</b>	\$ <b>N/A</b>
\$ <b>0.00</b>	\$ <b>N/A</b>
\$ <b>0.00</b>	\$ <b>N/A</b>
\$ <b>0.00</b>	\$ <b>N/A</b>

## 5. SUBTOTAL OF PAYROLL DEDUCTIONS

\$ <b>0.00</b>	\$ <b>N/A</b>
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## 6. TOTAL NET MONTHLY TAKE HOME PAY

\$ <b>0.00</b>	\$ <b>N/A</b>
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7. Regular income from operation of business or profession or farm (Attach detailed statement)
8. Income from real property
9. Interest and dividends
10. Alimony, maintenance or support payments payable to the debtor for the debtor's use or that of dependents listed above
11. Social security or government assistance (Specify):
12. Pension or retirement income
13. Other monthly income (Specify):

\$ <b>8,500.00</b>	\$ <b>N/A</b>
\$ <b>0.00</b>	\$ <b>N/A</b>
\$ <b>0.00</b>	\$ <b>N/A</b>
\$ <b>262.00</b>	\$ <b>N/A</b>
\$ <b>0.00</b>	\$ <b>N/A</b>
\$ <b>0.00</b>	\$ <b>N/A</b>
\$ <b>0.00</b>	\$ <b>N/A</b>
\$ <b>0.00</b>	\$ <b>N/A</b>
\$ <b>0.00</b>	\$ <b>N/A</b>

## 14. SUBTOTAL OF LINES 7 THROUGH 13

\$ <b>8,762.00</b>	\$ <b>N/A</b>
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## 15. AVERAGE MONTHLY INCOME (Add amounts shown on lines 6 and 14)

\$ <b>8,762.00</b>	\$ <b>N/A</b>
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## 16. COMBINED AVERAGE MONTHLY INCOME: (Combine column totals from line 15)

\$ <b>8,762.00</b>	
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(Report also on Summary of Schedules and, if applicable, on Statistical Summary of Certain Liabilities and Related Data)

17. Describe any increase or decrease in income reasonably anticipated to occur within the year following the filing of this document:

- |    |   |    |                 |
|----|---|----|-----------------|
| a. | Average monthly income from Line 15 of Schedule I | \$ | <u>8,762.00</u> |
| b. | Average monthly expenses from Line 18 above       | \$ | <u>5,669.00</u> |
| c. | Monthly net income (a. minus b.)                  | \$ | <u>3,093.00</u> |

B6J (Official Form 6J) (12/07)

In re **Michael C Burt**

Debtor(s)

Case No.

09-36136

**SCHEDULE J - CURRENT EXPENDITURES OF INDIVIDUAL DEBTOR(S)**  
**Detailed Expense Attachment**

**Other Utility Expenditures:**

internet	\$	<b>12.00</b>
cell phone	\$	<b>120.00</b>
cable	\$	<b>37.00</b>
<b>Total Other Utility Expenditures</b>	\$	<b>169.00</b>



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Aspire/cb&t  
Po Box 105555  
Atlanta, GA 30348

Bnchmrk Bank  
Pob 569  
Kenbridge, VA 23944

Boydton Community Health  
PO Box 540  
Boydton, VA 23917

Boydton Dental Center  
Po Box 472  
Boydton, VA 23917

Citizens Community Bank  
PO Box 490  
South Hill, VA 23970

Credit Control Corp  
11821 Rock Landing Dr  
Newport News, VA 23606

Credit One Bank  
Po Box 98875  
Las Vegas, NV 89193

First Premier Bank  
Po Box 5524  
Sioux Falls, SD 57117

First Premier Bank  
601 S Minnesota Ave  
Sioux Falls, SD 57104

G M A C  
Po Box 130424  
Roseville, MN 55113

H & M Financial Corp  
Po Box 521  
Haverford, PA 19041

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Hsbc Bank  
Attn: Bankruptcy  
Po Box 5253  
Carol Stream, IL 60197

IRS  
Internal Revenue Services  
Atlanta, GA 39901

James Priest DDS  
420 Hamilton Blvd

Jl Walston & Associate  
326 S Main Street  
Emporia, VA 23847

Kca Financial Svcs  
628 North St  
Geneva, IL 60134

Komatsu Financial  
1701 W Golf Road Ste 300  
PO Box 5050  
Rolling Meadows, IL 60008

Mecklenburg County Taxes  
PO Box 250  
Boydton, VA 23917

Peebles  
PO Box 659465  
San Antonio, TX 78265

RA Whitlow Painting and Floor  
1034 Brook Run  
Halifax, VA 24558

Receivable Management  
7206 Hull Street Rd Ste  
Richmond, VA 23235

Rish Equipment Co  
PO Box 330  
Bluefield, WV 24701

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Saxon Mortgage Sercive  
4708 Mercantile Dr. North  
jFortworth, TX 76137

Southside Messenger  
Po Box 849  
Keysville, VA 23947

The Monitor  
PO Box 399  
Sutherland, VA 23885

Wfs Financial/Wachovia  
Po Box 19657  
Irvine, CA 92623